

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.21344 of 2005

Dated: 27.03.2006

Between:

A.P. Power Generation Corporation Limited, rep. by its Chairman and Managing Director, Vidyut Soudha, Hyderabad.

.... PETITIONER

AND

The Deputy Commissioner of Labour, Warangal and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.21344 of 2005

Order:

Aggrieved by the order dated 14.06.2005 of respondent No.1-Deputy Commissioner of Labour, Warangal, insofar as directing the petitioner herein to appoint respondent Nos.2 and 3 on the rolls of AP GENCO, RTS 'B' Station, the present writ petition is filed.

Respondent Nos.2 and 3 herein earlier filed W.P. No. 20247 of 2002 seeking a

direction to the petitioner herein and others to absorb them in suitable posts as per B.P. Ms. No.37, dated 18.05.1997. This Court, by order dated 21.03.2005, disposed of the said writ petition with the following directions.

- i. The Deputy Commissioner of Labour, Warangal in whose jurisdiction the R.T.S. Ramagundam falls shall cause an enquiry as to whether the petitioner fall within the category of contract labour engaged in the maintenance works of coal Mills at R.T.S. Ramagundam.
- ii. Whether the maintenance work for which the petitioners were engaged forms part of the coal Mill maintenance and whether they are engaged in the Department as such in the category referred to above.
- iii. The Deputy Commissioner of Labour shall cause an enquiry after giving proper opportunity to the respondents as well as the petitioners to produce the necessary documents. He shall conduct the enquiry and pass appropriate order.
- iv. In case, the authority holds that they are engaged as contract labour, employed in the maintenance of work in the coal Mills maintenance, the respondents shall consider the case of the petitioners for absorption in accordance with B.P.Ms.No.37, dated 18.05.1997.
- v. The petitioners shall file necessary documents in this regard to the Deputy Commissioner within a period of four months from the date of receipt of copy of this order.

In pursuance of the said orders, respondent No.1-Deputy Commissioner of Labour, Warangal, after conducting enquiry, passed the impugned order holding that respondent Nos.2 and 3 herein were engaged as Contract Labours in coal Mills maintenance under various contractors, and directed the petitioner Management herein to appoint respondent Nos.2 and 3 herein on the rolls of the AP GENCO RTS 'B' Station within 30 days from the date of receipt of that order. It is this portion of order is the subject matter of challenge in the present writ petition.

This Court, on 30.09.2005, while ordering notice before admission, granted interim suspension of the impugned order passed by the Deputy Commissioner of Labour to the extent it directed the petitioner to appoint respondent Nos.2 and 3.

Heard the learned counsel for the petitioner, learned counsel for the respondent Nos.2 and 3 and learned Government Pleader for Labour.

In W.P. No.20247 of 2002, this Court directed the Deputy Commissioner of Labour only to conduct enquiry after giving reasonable opportunity to the respondents as well as the petitioner, and based on the findings of the Deputy

Commissioner of Labour, the petitioner herein shall consider the case of respondent Nos.2 and 3 for absorption in accordance with B.P. Ms. No.37, dated 18.05.1997. But, a perusal of the order passed by the Deputy Commissioner of Labour discloses that apart from recording a finding that respondent Nos.2 and 3 were engaged in coal Mills maintenance, he gave a direction to the petitioner to employ them. Such direction is, *prima facie*, outside the scope of the order passed by this Court in W.P. No.20247 of 2002.

In that view of the matter, the impugned order passed by the Deputy Commissioner of Labour to the extent of directing the petitioner herein to appoint respondent Nos.2 and 3 on the rolls of the AP GENCO RTS "B" Station, is hereby set aside. The petitioner is directed to pass appropriate orders in the light of the findings given by the Deputy Commissioner of Labour within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

N.V. RAMANA, J.

Date: 27.03.2006

NSR/KSR